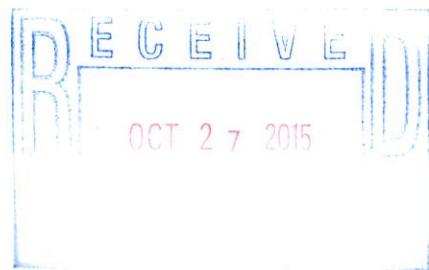


Darryl Dunsen  
ADG237 CSA-132

Box 32200

Stockton CA 95213



UNITED STATE SOUTHERN DISTRICT  
BANKRUPTCY COURT OF NEW YORK

Darryl Dunsen  
Plaintiff

✓

Case# 09-50026 (REG)

GMC Etal  
Defendants

Motion of Notice  
of intent to  
support of Third  
Party & Joinder

10/14/15

DAD -

1681

Darryl Dunsen  
AOG237 C3A-132  
PO Box 32200  
Stockton Ca 95213



UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

Darryl Dunsen  
Petitioner

Case # 15-56708

Emergency

Kamala Harris et al  
Respondents

Circuit Rule 27-3  
Certificate in support  
of Writ and  
Third party

Facts

Petitioner's claims may be unjustly dismissed if such emergency motions are not received immediately by the Court. Relevant factual documents which support Petitioner's merits claims causing manifest injustice by the continued incarceration of an actually

innocent person and that said constitutionally  
Mandated Discovery will be for ever lost  
Cancelled, Destroyed by The Defendants in  
Related actions

I the petitioner certifies to these  
statements and Declare Them to be True  
under penalty of perjury

These grounds have not been presented to  
The Courts in question because of the obstacles  
of Court access and time Restraints outlined  
in related petitions even the attached Exhibits  
are incomplete due to this obstruction

for Good Cause and Due Diligence  
Petitioner upon appropriate access to Copying  
Services petitioner will file and forward  
appropriate Copies however emergency Consideration  
is needed now before any unfortunate Decision  
by The Court without knowledge of these  
Related matters and This action should not  
be denied or Remanded

I Declare under Penalty of perjury  
The foregoing is true and correct

10/11/15 Del De

2082

Darryl Donsmore  
A06237 CSA-132  
PO Box 32200  
Stockton ca 95213



UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

Darryl Donsmore  
Petitioner

Case# 15-56308

EMERGENCY  
Rule 27-3

Kanola Harris et al  
Respondents

Motion for Joinder  
of Claims and Remedies  
Federal Rules of Civ. l  
Procedure Rule 18(a)(b)  
Rule 19(a)

Petitioner Motions for Relief to prevent  
irreparable harm to petitioner Claims. That said  
Claims is only Cognizable after prosecution to  
Conclusion of other Claims Case# 09-50026 (REC)  
SOUTHERN DISTRICT OF NEW YORK Ignatius  
switch Litigation and Case Donsmore v

GMC, Lobel, Viking <sup>Pg 5 of 17</sup> et al # 8CS045638

Solano Superior Court Petitioner Motions for  
 Joinder and Jurisdiction over all pending  
 claims in order to protect Constitutionally  
 Mandated Discovery

Which supports petitioners claims of  
 actual innocence of which the Defendants  
 are Concealing, Destroying in violation of  
 Penal Code 133, 134, 135 Petitioner contends  
 such persons are needed for Just  
 Adjudication under Rule 19(a) Federal  
 Rules of Civil Procedure

I Declare under penalty of Perjury  
 the foregoing is true

10/11/15 DMD-e

2082

Darryl Dunsner

ADG237 C3A 132

PO Box 32200

Stockton Ca 95213



UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

Darryl Dunsner  
Petitioner

v

Kamala Harris et al  
Respondents

Case# 15-56308

Emergency  
27-3

Federal Rules of  
Civil Procedure  
14(a)(b) Motion  
for Third Party

Petitioner Now Motions This Court To Join  
3rd party Defendant/Respondent under Rule 14(a)(b)  
Federal Rules of Civil Procedure Said 3rd Party  
(New GMC) in Related Case Ignition Switch  
Litigation Southern District of New York

Holding Constitutionally Mandated Discovery  
Case 09-50026 (REG) said exculpatory evidence  
Directly and affirmatively supports Petitioner's  
claims of actual innocence

That with out Relief from This Court  
evidence may be conceal, Destroyed in violation  
of Penal Code 135 That emergency action  
is necessary to prevent irreparable harm to  
Petitioner's claims of actual innocence and  
his applications for CQA

I Declare under penalty of perjury The  
foregoing is true

10/11/15 D. D. e

2082

Darryl Darnmore  
A06237 C3A-132  
PO Box 32200  
Stockton Ca 95213



UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

Darryl Darnmore  
Petitioner

v

Kanala Harris et al  
Respondents

Case # 15-56308

Emergency  
Rule 27-3

Federal Rules of  
Civil Procedure  
14(a)(b) Motion  
for Third Party  
and Joinder  
Pursuance of  
Points and Authorities

Federal Rules of Evidence 404(b) (Prior bad acts  
Admissible for Proof of Motive opportunity etc)  
Mertner v Cornell Correction of Texas 229 FRD  
211, 212 (D.N.M. 2005) (entitled to Discovery  
concerning misconduct During the course of  
employment)

10/11/15 DMD

Exh. B + A

## KING & SPALDING

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Scott I. Davidson  
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September 8, 2015

Via Overnight Delivery

Darryl Dunsmore  
AD #6327  
P.O. BOX 2000  
1600 California Drive  
Vacaville, CA 95696-2000

Re: *Dunsmore v. GMC, et al*  
Case No.: FCS 045638 (Super. Ct., Solano Cnty., CA)

Dear Mr. Dunsmore:

King & Spalding LLP is co-counsel with Kirkland & Ellis LLP for General Motors LLC ("New GM"), the defendant in the above-referenced action ("Action"). Reference is made to your pleadings ("Pleading") filed in the Action which seeks, among other things, to hold New GM liable for various claims, all of which are based on an accident that occurred prior to the closing of the sale ("Sale") from General Motors Corporation (n/k/a Motors Liquidation Company) ("Old GM") to New GM.

Contrary to the allegations set forth in the Pleading, New GM is not liable for claims based on accidents that occurred prior to the closing of the Sale. The Amended and Restated Master Sale and Purchase Agreement, dated as of June 26, 2009 (as amended) ("Sale Agreement"), which was approved by an Order, dated July 5, 2009 ("Sale Order and Injunction"), of the United States Bankruptcy Court for the Southern District of New York ("Bankruptcy Court"), is clear in this regard, providing that Retained Liabilities (as defined in Section 2.3(b) of the Sale Agreement) of Old GM specifically include "all Product Liabilities arising in whole or in part from any accidents, incidents or other occurrences that happen prior to the Closing Date[.]" Sale Agreement, § 2.3(b)(ix). Pursuant to the Sale Order and Injunction, you are prohibited from asserting any Retained Liabilities against New GM. See, e.g., Sale Order and Injunction, ¶¶ 8, 46.

The Bankruptcy Court recently issued a Judgment, dated June 1, 2015 ("Judgment"), which reiterated that plaintiffs, like the plaintiff in the Action, who were involved in accidents that occurred prior to the closing of the 363 Sale, are barred from asserting claims against New GM that are based on pre-Sale accidents. See *Judgment*, dated June 1, 2015 [Dkt. No. 13177]

Darryl Dunsmore  
September 8, 2015  
Page 2

("Judgment"),<sup>1</sup> ¶ 7 ("Any claims and/or causes of action brought by the Ignition Switch Pre-Closing Accident Plaintiffs that seek to hold New GM liable for accidents or incidents that occurred prior to the closing of the 363 Sale are barred and enjoined pursuant to the Sale Order. The Ignition Switch Pre-Closing Accident Plaintiffs shall not assert or maintain any such claim or cause of action against New GM."). The reasoning and rulings set forth in the Judgment and Decision are equally applicable to the Lawsuit. Accordingly, the Pleading should be dismissed.

While the Judgment provided procedures for dismissing pleadings that violate the Judgment, Decision and Sale Order and Injunction, or filing a pleading with the Bankruptcy Court if you have a good faith basis to maintain that your pleading should not be amended, the Bankruptcy Court, on September 3, 2015, entered a *Scheduling Order Regarding Case Management Order Re: No-Strike, No Stay, Objection, And GUC Trust Asset Pleading* ("Scheduling Order"), which contains procedures that supersede the procedures set forth in the Judgment. A copy of the Scheduling Order is attached hereto as Exhibit "C." Please consult the Scheduling Order for the procedures that apply to this matter.

If you have any objection to the procedures set forth in the Scheduling Order, you must file such objection in writing with the Bankruptcy Court within three (3) business days of receipt of this demand letter ("Objection"). Otherwise, you will be bound by the terms of the Scheduling Order and the determinations made pursuant thereto. If you believe there are issues that should be presented to the Bankruptcy Court relating to your lawsuit that will not otherwise be briefed and argued in accordance with the Scheduling Order, you must set forth that position, with specificity, in your Objection. The Bankruptcy Court will decide whether a hearing is required with respect to any Objection timely filed and, if so, will, promptly notify the parties involved.

This letter and its attachments constitute service on you of the Judgment and Decision, as well as the Scheduling Order.

New GM reserves all of its rights regarding any continuing violations of the Bankruptcy Court's rulings.

If you have any questions, please call me.

Very truly yours,

/s/ Scott I. Davidson

Scott I. Davidson

SD/hs  
Encl.

---

<sup>1</sup> A copy of the Judgment is annexed hereto as Exhibit "A." The Judgment memorializes the rulings in the Bankruptcy Court's *Decision on Motion to Enforce Sale Order*, dated April 15, 2015 ("Decision"). A copy of the Decision is annexed hereto as Exhibit "B."

# **Exhibit A**

3. The Ignition Switch Pre-Closing Accident Plaintiffs were not prejudiced by their lack of notice of the 363 Sale, and they thus failed to demonstrate a due process violation with respect to the 363 Sale.

4. With respect to the Independent Claims, the Ignition Switch Plaintiffs were prejudiced by the failure to give them the notice of the 363 Sale that due process required. The Ignition Switch Plaintiffs established a due process violation with respect to the Independent Claims. The Sale Order shall be deemed modified to permit the assertion of Independent Claims. For purposes of this Judgment, "Independent Claims" shall mean claims or causes of action asserted by Ignition Switch Plaintiffs against New GM (whether or not involving Old GM vehicles or parts) that are based solely on New GM's own, independent, post-Closing acts or conduct. Nothing set forth herein shall be construed to set forth a view or imply whether or not Ignition Switch Plaintiffs have viable Independent Claims against New GM.

5. Except for the modification to permit the assertion of Independent Claims by the Ignition Switch Plaintiffs, the Sale Order shall remain unmodified and in full force and effect.

6. The Plaintiffs were prejudiced by the failure to receive the notice due process required of the deadline ("Bar Date") to file proofs of claim against the Old GM bankruptcy estate. Any Plaintiff may petition the Bankruptcy Court (on motion and notice) for authorization to file a late or amended proof of claim against the Old GM bankruptcy estate. The Court has not determined the extent to which any late or amended proof of claim will ultimately be allowed or allowed in a different amount. But based on the doctrine of equitable mootness, in no event shall assets of the GUC Trust held at any time in the past, now, or in the future (collectively, the "GUC Trust Assets") (as defined in the Plan) be used to satisfy any claims of the Plaintiffs, nor will Old GM's Plan be modified with respect to such claims; *provided* that nothing in this

## **Exhibit B**

529 B.R. 510, 60 Bankr.Ct.Dec. 253, Bankr. L. Rep. P 82,789  
(Cite as: 529 B.R. 510)

circumstances, to apprise interested parties of pendency of action and to afford them an opportunity to present their objections. U.S. Const. Amend. 5.

[2] Constitutional Law 92 🔑 3881

92 Constitutional Law

92XXVII Due Process

92XXVII(B) Protections Provided and Deprivations Prohibited in General

92k3878 Notice and Hearing

92k3881 k. Notice. Most Cited Cases

To satisfy due process requirements, notice must be of such nature as reasonably to convey the required information, and it must afford a reasonable time for those interested to make their appearance. U.S. Const. Amend. 5.

[3] Constitutional Law 92 🔑 3881

92 Constitutional Law

92XXVII Due Process

92XXVII(B) Protections Provided and Deprivations Prohibited in General

92k3878 Notice and Hearing

92k3881 k. Notice. Most Cited Cases

Notice to others with an interest in objecting can ameliorate prejudice, and impliedly, if not expressly, even the existence of constitutionally deficient notice in first place, to those who did not get the notice that the Due Process Clause requires. U.S. Const. Amend. 5.

[4] Constitutional Law 92 🔑 3881

92 Constitutional Law

92XXVII Due Process

92XXVII(B) Protections Provided and Deprivations Prohibited in General

92k3878 Notice and Hearing

92k3881 k. Notice. Most Cited Cases

Due Process Clause requires the best notice practical under the circumstances, both in terms of the manner in which notice is provided and the quality of the notice; however, this notice requirement should not be interpreted so inflexibly as to make it an impractical or impossible obstacle. U.S. Const. Amend. 5.

[5] Constitutional Law 92 🔑 4478

92 Constitutional Law

92XXVII Due Process

92XXVII(G) Particular Issues and Applications

92XXVII(G)25 Other Particular Issues and Applications

92k4478 k. Bankruptcy. Most Cited Cases

Two-step methodology may be used by court, in bankruptcy context, in deciding whether claimant received notice sufficient to satisfy due process requirements, under which court first inquires whether claimant knew of the claim it might assert, and then determines whether the claim was, from perspective of notice-giver, often the debtor, a "known" claim, obligating the notice-giver to provide actual, and possibly more detailed, notice. U.S. Const. Amend. 5.

[6] Constitutional Law 92 🔑 3881

92 Constitutional Law

92XXVII Due Process

92XXVII(B) Protections Provided and Deprivations Prohibited in General

92k3878 Notice and Hearing

92k3881 k. Notice. Most Cited Cases

In some cases, even if the means of notice are

529 B.R. 510, 60 Bankr.Ct.Dec. 253, Bankr. L. Rep. P 82,789  
(Cite as: 529 B.R. 510)

**Constitutional Law 92 4478**

**92 Constitutional Law**

**92XXVII Due Process**

**92XXVII(G) Particular Issues and Applications**

**92XXVII(G)25 Other Particular Issues and Applications**

**92k4478 k. Bankruptcy. Most Cited Cases**

While purchasers with products liability claims against bankrupt automobile manufacturer might eventually share, as general unsecured creditors, in proceeds from court-approved sale of Chapter 11 debtor-manufacturer's assets outside ordinary course of its business, their interest in pursuing successor liability claims against asset purchaser, whatever their merits, was not so minimal that they did not even have due process right to be heard in connection with sale of those assets. U.S. Const. Amend. 5; 11 U.S.C.A. § 363.

**[12] Corporations And Business Organizations 101 2639**

**101 Corporations and Business Organizations**

**101X Mergers, Acquisitions, and Reorganizations**

**101X(A) In General**

**101k2638 Assumption of or Succession to Transferor's Liabilities**

**101k2639 k. In general. Most Cited Cases**

Theories of successor liability, when permissible, permit claimant to assert claims not just against the transferor of assets, but also against transferee, and provide a second target for recovery.

**[13] Bankruptcy 51 3170**

**51 Bankruptcy**

**51X Administration**

**51X(E) Compensation of Officers and Others**

**51X(E)3 Attorneys**

**51k3170 k. In general. Most Cited Cases**

**Constitutional Law 92 4478**

**92 Constitutional Law**

**92XXVII Due Process**

**92XXVII(G) Particular Issues and Applications**

**92XXVII(G)25 Other Particular Issues and Applications**

**92k4478 k. Bankruptcy. Most Cited Cases**

Bankruptcy court could not rely upon conclusion which it reached at hearing to which purchasers with products liability claims against bankrupt automobile manufacturer were not invited, that there was no continuity between Chapter 11 debtor-manufacturer and purchaser of its assets and thus no basis for asserting successor liability claims against purchaser, as basis for excusing lack of notice to products liability claimants on ground that they had no due process right to be heard. U.S. Const. Amend. 5.

**[14] Bankruptcy 51 3170**

**51 Bankruptcy**

**51X Administration**

**51X(E) Compensation of Officers and Others**

**51X(E)3 Attorneys**

**51k3170 k. In general. Most Cited Cases**

**Constitutional Law 92 4478**

**92 Constitutional Law**

**92XXVII Due Process**

**92XXVII(G) Particular Issues and Applications**

**92XXVII(G)25 Other Particular Issues and**

PROOF OF SERVICE BY UNITED STATES MAIL  
(Code of Civil Procedure Section 1015)  
(28 U.S.C. Section 1746)

I, David Bell declare, depose and say, the following statement is true and correct under penalty of perjury according to the laws of the State of California based on matters known to me personally to be true:

1) I am over the age of eighteen years, a resident and a state prisoner, of the State of California with a present mailing address of:

Box 32200 Stockton Ca 95213

2) On this 14 day of Oct 20 15, I caused a true and correct copy of the following specifically described, document(s);

Motion for Third Party Joinder  
Notice of intent

at the prison to be placed in a sealed envelope(s), with first postage, having been placed thereon, duly addressed to the interested person or persona described hereinafter, and then deposited such envelopes(s) in the regular United States mail, or mail service made available where I am detained, to the addressee(s):

Kinga Spalding  
1185 Ave of Americas  
NY NY 10036-4003  
Steve Briner 1918  
Eight Ave Ste 300  
Seattle Washington 98101

David Shay 970  
West 190th St Ste 200  
Torrance Ca 90502  
Matthew Mulford  
600 West Broadway  
Ste 1800  
SO Ca 92101

Sulano Superior Court  
580 Texas St  
Fairfield Ca 94533  
Cth cor Appeals  
Box 127939  
San Francisco Ca 94119-7939  
Southern District Court  
880 Front St  
SD Ca 92101

3) I declare that there has been regular U.S. mail pick-up by correctional officers at the prison, and/or delivery service, at the places(s) where I posted the envelopes described above, regular communication by mail between the place of mailing and the place so addressed.

Elizabeth Cabraser  
275 Battery St 29 floor  
San Francisco Ca 94111

Tony Rockawckas  
401 Civil Center Dr  
Santa Ana Ca 92701-4575

Mark P. Robison  
19 Corporate Plaza  
Dr Newport Beach  
Ca 92660  
Kenneth Anthony  
250 Magnolia St  
Spokane, SC 29306

Edward Weisbater  
7 Times Square  
NY NY 10076  
Sander Esserman  
2323 Bryan St  
Ste 2200  
Dallas Texas 75201

Executed this 14 day of Oct, 20 15, under penalty of perjury according to the laws of the State of California, at Los Angeles, County, City of Lancaster.

Thomas Horne  
1275 Washington St  
Phoenix Arizona 85007

David Horne  
205 4th St NW #403  
Washington DC 20001

Richard Godfrey  
300 North LaSalle  
Chicago IL 60654

